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Bay Area Drum  
SMB-D

Attorneys for  
California Department of Toxic Substances Control

**UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF DELAWARE**

In re	)	No. 92-115
	)	(Chapter 11)
TRANS WORLD AIRLINES, INC.,	)	
	)	<b>STIPULATION AND AGREED</b>
Debtors.	)	<b>ORDER COMPROMISING AND</b>
	)	<b>SETTLING CLAIM NO. 12735</b>
	)	<b>OF THE CALIFORNIA</b>
	)	<b>DEPARTMENT OF TOXIC</b>
	)	<b>SUBSTANCES CONTROL</b>

WHEREAS, the California Department of Toxic Substances Control ("DTSC") alleges that Trans World Airlines, Inc. ("TWA") shipped for disposal approximately 1000 drums containing hazardous substances to the Bay Area Drum Facility located at 1212 Thomas Avenue, San Francisco, California (the "Site");

WHEREAS, DTSC estimates that the total number of drums of hazardous substances sent to the Site exceeds 250,000;

WHEREAS, DTSC has incurred response costs and will in the future incur additional response costs investigating and characterizing the suspected presence of released hazardous substances at the Site and overseeing remedial work at the Site;

Stipulation Compromising  
Controversy  
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WHEREAS, DTSC contends that TWA is one of the parties whose actions have required the investigation, characterization and remediation of hazardous substances contamination at the Site, or for reimbursing the costs it has incurred and will incur conducting such activities, while TWA contends in all respects to the contrary;

WHEREAS, on January 31, 1992, TWA filed a voluntary petition in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"), and TWA has continued in the management of its business and possession of its property as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, after notice and hearing, the Bankruptcy Court fixed May 15, 1992 as the bar date for filing proofs of claim ("claims bar date");

WHEREAS, on June 16, 1992, DTSC filed its Proof of Claim No. 12735 (the "DTSC Claim") which asserted its response costs at over \$12 million for the Site;

WHEREAS, on August 12, 1993 (the "Confirmation Date"), the Bankruptcy Court entered, pursuant to Federal Rule of Bankruptcy Procedure 9021, a final judgment confirming the Second Amended Plan of Reorganization of TWA (the "Plan");

WHEREAS, the Bankruptcy Court has not ruled on the issue of whether to allow DTSC's late-filed claim;

WHEREAS, DTSC and TWA believe that it is in their respective best interests, as well as the best interests of TWA's estate and all of its creditors, and in the best interests of the public, for this contested matter to be resolved by compromise, without further litigation;

WHEREAS, a group of entities potentially responsible for the cost of cleanup of the Site (the Bay Area Drum Ad Hoc PRP Group, an unincorporated association, the current members of which are listed by name in attachment A), are

currently performing response activities at the site and have an interest in this Agreement; and

WHEREAS, the Plan, in Section XII.A, and the Findings of Fact, Conclusions of Law and Order Confirming the Plan, in Section III.I. provide for the continued existence of the Official Unsecured Creditors' Committee (the "Committee") until the first anniversary of the Effective Date (as defined in the Plan), for the purpose of (i) participating as an interested necessary party in the implementation of the Plan and in all matters with respect to which the Bankruptcy Court will retain jurisdiction pursuant to Article XI of the Plan and (ii) performing such other duties and functions as the Bankruptcy Court may order;

NOW, THEREFORE, IT IS HEREBY STIPULATED, by and among TWA, DTSC, and the Bay Area Drum Ad Hoc PRP Group as follows:

1. Court Approval.

a. Notwithstanding that Section VII.A.2 of the Plan provides that, as of the Confirmation Date, TWA and the Committee may compromise or settle any disputed claim without approval of the Bankruptcy Court, because this Stipulation calls for the payment of cash in compromise and settlement of the DTSC Claim, which, in part, is a general unsecured claim that would otherwise be treated as a Class 10 Claim under the Plan, DTSC has asked TWA to obtain final approval of this Stipulation by the Bankruptcy Court as a condition of consummation of this Stipulation. TWA agrees to use its best efforts to obtain, at the earliest available opportunity, Bankruptcy Court approval; DTSC agrees to use its best efforts to cooperate with TWA in obtaining that approval.

b. This Stipulation is expressly conditioned on its approval by the Bankruptcy Court and its entry as an order of the Bankruptcy Court. The parties expressly recognize that the Court has jurisdiction to approve this Stipulation and to enter it as an order of the Court, pursuant to 28 U.S.C. §§ 157 and 1334 and Section XI.1 of the Plan.

2. Settlement. In full settlement of DTSC's claim against TWA's estate in bankruptcy, including but not limited to the DTSC Claim and all claims arising out of or related to all past, present, and future claims by DTSC against TWA; its predecessors, successors and assigns; each of its past, present and future subsidiaries, affiliates, sister and parent companies; and each of its past, present and future directors, officers, employees, professionals, other agents, trustees and legal representatives (acting in such capacity) with respect to the Site, TWA agrees to pay DTSC \$20,000 in cash within 30 days of the Effective Date.

3. Parties to the Stipulation. This Stipulation, and the order of the Court approving it, shall apply to and be binding upon DTSC and TWA, and their respective successors and assigns. The parties state and warrant that they have read all of the terms of this Stipulation, that they understand them, and that they intend to be legally bound thereby. Additionally, the Bay Area Ad Hoc PRP Group, though not a party to this Stipulation, agrees not to challenge this Stipulation.

4. Reservation of Rights. Nothing in this Stipulation is intended or shall be construed to limit the rights of DTSC, or any other government agency, with respect to the deposit or disposal at any other location of substances removed from the Site. Except as explicitly stated in this Stipulation, nothing in this Stipulation is intended or shall be construed to limit or preclude DTSC, or any other government agency, from taking enforcement action against any person, entity or government agency; exercising its authority under any law, statute, or regulation; or from taking any action authorized by law to protect the public health and welfare or environmental quality, and recovery the cost thereof.

5. No Admission of Liability. Nothing in this stipulation shall be construed as an admission on the part of TWA or any other person or entity of any liability to DTSC or the Bay Area Drum Ad Hoc PRP Group, or the validity of any claim of DTSC or the Bay Area Drum Ad Hoc PRP Group asserted against TWA. This section shall have no effect upon any of the obligations, responsibilities, and duties of the TWA under this Stipulation.

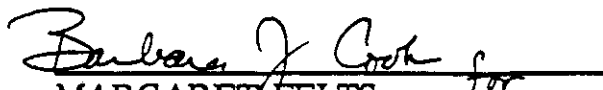
6. Representative Authority. Each undersigned representative of the respective parties to this Stipulation certifies that he or she is fully authorized to enter into the terms and conditions of this stipulation, to execute this Stipulation on behalf of the party represented and to bind legally that party.

7. Modification in Writing. This Stipulation may be modified with the written approval of the parties.

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THEODORA BERGER  
Assistant Attorney General

  
KEN ALEX  
Supervising Deputy Attorney General

CALIFORNIA DEPARTMENT OF  
TOXIC SUBSTANCES CONTROL

  
MARGARET FELTS  
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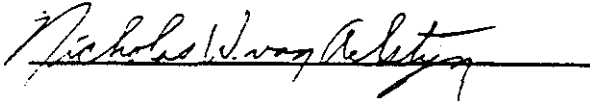
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Creditors' Committee

APPROVED AND SO ORDERED:



THE HONORABLE HELEN S. BALICK  
UNITED STATES BANKRUPTCY JUDGE

*Nov.*  
DATED: SEPTEMBER 10, 1993

## ATTACHMENT A

### Membership of the Bay Area Drum Facility Ad Hoc PRP Group as of September 22, 1993

1. Aerojet General Corp.
2. Allied-Signal, Inc.
3. Ashland Chemical, Inc.
4. Bay Area Rapid Transit
5. Bytech Chemical Corp.
6. California Solvent Recycling Corp.
7. ChemCentral Corp.
8. Chevron Corp.
9. Courtaulds Coatings, Inc. (for International Paint Co.)
10. Defense Reutilization and Marketing Service
11. Dorsett & Jackson, Inc.
12. E.I. DuPont de Nemours & Co., Inc.
13. Exxon Company, U.S.A.
14. Ford Motor Company
15. General Motors Corp.
16. Great Western Chemical Co.
17. Hewlett-Packard Co.
18. Ingersoll-Rand Co. (for Schlage Lock Company)
19. Intel Corp.
20. International Paper Co. (for Stecher-Traung-Schmidt)
21. Kaiser Aluminum & Chemical Corp.
22. Klix Corp.
23. Lockheed Missiles & Space Co., Inc.
24. Maxus Energy Corp. (for Occidental Chemical Corp., successor to Diamond Shamrock Chemical Corp.)
25. Monsanto Company
26. Nadi Manufacturing Co.
27. NI Industries, Inc.
28. NL Industries, Inc.
29. The O'Brien Corp. (for Fuller-O'Brien Paints)
30. Owens-Illinois, Inc.
31. Pacific Gas & Electric Co.
32. Pennzoil Co.
33. PureGro Co.
34. Quaker State Corp.
35. Redwood Oil Co.
36. Reichhold Chemicals, Inc.
37. Reynolds Metals Co.
38. Rohm & Haas Co.

39. Romic Chemical Corp.
40. R. J. McGlennon Co.
41. Sandoz Agro (for Zeecon Corp.)
42. Sequa Corp. (for General Printink Ink, a division of Sun Chemical)
43. Simpson Coatings Group, Inc.
44. Stanford University
45. The Stero Company
46. Syntex (U.S.A.), Inc.
47. Teledyne McCormick Selph
48. Textron, Inc.
49. University of California at San Francisco
50. United Air Lines, Inc.
52. United Technologies Corp.
52. UNIVAR Corp. (for Van Waters & Rogers, Inc.)
53. Western Chemical (Haley Janitorial Supply Co., Inc. dba Western Chemical)
54. W.R. Grace & Co., Inc.